

1 A bill to be entitled

2 An act relating to flood insurance; amending s.  
3 627.062, F.S.; adding projected flood losses to the  
4 factors that must be considered by the Office of  
5 Insurance Regulation in reviewing certain rate  
6 filings; amending s. 627.0628, F.S.; requiring the  
7 Florida Commission on Hurricane Loss Projection  
8 Methodology to adopt standards and guidelines relating  
9 to personal lines residential flood loss by a certain  
10 date; creating s. 627.715, F.S.; authorizing certain  
11 insurers to offer flood insurance in this state;  
12 providing standard, preferred, and customized coverage  
13 requirements; authorizing supplemental flood  
14 insurance; providing supplemental flood insurance  
15 requirements; defining the term "flood"; requiring  
16 that certain limitations be noted on the policy  
17 declarations or face page; providing the insurer with  
18 rate options; authorizing a surplus lines agent to  
19 export a contract or endorsement for flood coverage to  
20 a surplus lines insurer without meeting certain  
21 requirements; requiring the insurer to notify the  
22 office before writing flood insurance and to file a  
23 plan of operation with the office; providing an  
24 exception; prohibiting Citizens Property Insurance  
25 Corporation from providing flood insurance;  
26 prohibiting the Florida Hurricane Catastrophe Fund

27 from reimbursing losses caused by flooding; requiring  
 28 certain agents to obtain an acknowledgment of certain  
 29 disclosures signed by the applicant; providing  
 30 construction; providing an effective date.

31

32 Be It Enacted by the Legislature of the State of Florida:

33

34 Section 1. Paragraph (b) of subsection (2) of section  
 35 627.062, Florida Statutes, is amended to read:

36 627.062 Rate standards.—

37 (2) As to all such classes of insurance:

38 (b) Upon receiving a rate filing, the office shall review  
 39 the filing to determine if a rate is excessive, inadequate, or  
 40 unfairly discriminatory. In making that determination, the  
 41 office shall, in accordance with generally accepted and  
 42 reasonable actuarial techniques, consider the following factors:

43 1. Past and prospective loss experience within and without  
 44 this state.

45 2. Past and prospective expenses.

46 3. The degree of competition among insurers for the risk  
 47 insured.

48 4. Investment income reasonably expected by the insurer,  
 49 consistent with the insurer's investment practices, from  
 50 investable premiums anticipated in the filing, plus any other  
 51 expected income from currently invested assets representing the  
 52 amount expected on unearned premium reserves and loss reserves.

53 The commission may adopt rules using reasonable techniques of  
 54 actuarial science and economics to specify the manner in which  
 55 insurers calculate investment income attributable to classes of  
 56 insurance written in this state and the manner in which  
 57 investment income is used to calculate insurance rates. Such  
 58 manner must contemplate allowances for an underwriting profit  
 59 factor and full consideration of investment income that produces  
 60 ~~which produce~~ a reasonable rate of return; however, investment  
 61 income from invested surplus may not be considered.

62 5. The reasonableness of the judgment reflected in the  
 63 filing.

64 6. Dividends, savings, or unabsorbed premium deposits  
 65 allowed or returned to ~~Florida~~ policyholders, members, or  
 66 subscribers in this state.

67 7. The adequacy of loss reserves.

68 8. The cost of reinsurance. The office may not disapprove  
 69 a rate as excessive solely due to the insurer having obtained  
 70 catastrophic reinsurance to cover the insurer's estimated 250-  
 71 year probable maximum loss or any lower level of loss.

72 9. Trend factors, including trends in actual losses per  
 73 insured unit for the insurer making the filing.

74 10. Conflagration and catastrophe hazards, if applicable.

75 11. Projected hurricane losses, if applicable, which must  
 76 be estimated using a model or method found to be acceptable or  
 77 reliable by the Florida Commission on Hurricane Loss Projection  
 78 Methodology, and as further provided in s. 627.0628.

79           12. Projected flood losses for personal residential  
 80 property insurance, if applicable, which may be estimated using  
 81 a model or method, or a straight average of model results or  
 82 output ranges, independently found to be acceptable or reliable  
 83 by the Florida Commission on Hurricane Loss Projection  
 84 Methodology and as further provided in s. 627.0628.

85           ~~13.12.~~ A reasonable margin for underwriting profit and  
 86 contingencies.

87           ~~14.13.~~ The cost of medical services, if applicable.

88           ~~15.14.~~ Other relevant factors that affect the frequency or  
 89 severity of claims or expenses.

90

91 The provisions of this subsection do not apply to workers'  
 92 compensation, employer's liability insurance, and motor vehicle  
 93 insurance.

94           Section 2. Subsection (3) of section 627.0628, Florida  
 95 Statutes, is amended to read:

96           627.0628 Florida Commission on Hurricane Loss Projection  
 97 Methodology; public records exemption; public meetings  
 98 exemption.—

99           (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

100           (a) The commission shall consider any actuarial methods,  
 101 principles, standards, models, or output ranges that have the  
 102 potential for improving the accuracy of or reliability of the  
 103 hurricane loss projections used in residential property  
 104 insurance rate filings and flood loss projections used in rate

105 filings for personal lines residential flood insurance coverage.

106 The commission shall, from time to time, adopt findings as to  
 107 the accuracy or reliability of particular methods, principles,  
 108 standards, models, or output ranges.

109 (b) The commission shall consider any actuarial methods,  
 110 principles, standards, or models that have the potential for  
 111 improving the accuracy of or reliability of projecting probable  
 112 maximum loss levels. The commission shall adopt findings as to  
 113 the accuracy or reliability of particular methods, principles,  
 114 standards, or models related to probable maximum loss  
 115 calculations.

116 (c) In establishing reimbursement premiums for the Florida  
 117 Hurricane Catastrophe Fund, the State Board of Administration  
 118 must, to the extent feasible, employ actuarial methods,  
 119 principles, standards, models, or output ranges found by the  
 120 commission to be accurate or reliable.

121 (d) With respect to a rate filing under s. 627.062, an  
 122 insurer shall employ and may not modify or adjust actuarial  
 123 methods, principles, standards, models, or output ranges found  
 124 by the commission to be accurate or reliable in determining  
 125 hurricane loss factors for use in a rate filing under s.

126 627.062. An insurer shall employ and may not modify or adjust  
 127 models found by the commission to be accurate or reliable in  
 128 determining probable maximum loss levels pursuant to paragraph  
 129 (b) with respect to a rate filing under s. 627.062 made more  
 130 than 60 days after the commission has made such findings. This

131 paragraph does not prohibit an insurer from using a straight  
 132 average of model results or output ranges for the purposes of a  
 133 rate filing for personal lines residential flood insurance  
 134 coverage under s. 627.062.

135 (e) The commission shall adopt actuarial methods,  
 136 principles, standards, models, or output ranges for personal  
 137 lines residential flood loss no later than July 1, 2017.

138 (f)~~(e)~~ The commission shall revise ~~adopt revisions to~~  
 139 previously adopted actuarial methods, principles, standards,  
 140 models, or output ranges every odd-numbered ~~odd~~ year.

141 (g)~~(f)~~1. A trade secret, as defined in s. 688.002, that is  
 142 used in designing and constructing a hurricane loss model and  
 143 that is provided pursuant to this section, by a private company,  
 144 to the commission, office, or consumer advocate appointed  
 145 pursuant to s. 627.0613, is confidential and exempt from s.  
 146 119.07(1) and s. 24(a), Art. I of the State Constitution.

147 2.a. That portion of a meeting of the commission or of a  
 148 rate proceeding on an insurer's rate filing at which a trade  
 149 secret made confidential and exempt by this paragraph is  
 150 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the  
 151 State Constitution. The closed meeting must be recorded, and no  
 152 portion of the closed meeting may be off the record.

153 b. The recording of a closed portion of a meeting is  
 154 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 155 Constitution.

156 c. This subparagraph is subject to the Open Government

157 Sunset Review Act in accordance with s. 119.15 and shall stand  
 158 repealed on October 2, 2015, unless reviewed and saved from  
 159 repeal through reenactment by the Legislature.

160 Section 3. Section 627.715, Florida Statutes, is created  
 161 to read:

162 627.715 Flood insurance.—An authorized insurer may issue  
 163 an insurance policy, contract, or endorsement providing personal  
 164 lines residential coverage for the peril of flood on any  
 165 structure or the contents of personal property contained  
 166 therein, subject to this section. This section does not apply to  
 167 commercial lines residential or commercial lines nonresidential  
 168 coverage for the peril of flood. This section also does not  
 169 apply to coverage for the peril of flood that is excess coverage  
 170 over any other insurance covering the peril of flood. An insurer  
 171 may issue flood insurance policies, contracts, or endorsements  
 172 on a standard, preferred, customized, or supplemental basis.

173 (1) (a) 1. Standard flood insurance must cover only losses  
 174 from the peril of flood, as defined in paragraph (b), equivalent  
 175 to that provided under a standard flood insurance policy under  
 176 the National Flood Insurance Program. Standard flood insurance  
 177 issued under this section must provide the same coverage,  
 178 including deductibles and adjustment of losses, as that provided  
 179 under a standard flood insurance policy under the National Flood  
 180 Insurance Program.

181 2. Preferred flood insurance must include the same  
 182 coverage as standard flood insurance but:

183 a. Include, within the definition of "flood," losses from  
 184 water intrusion originating from outside the structure that are  
 185 not otherwise covered under the definition of "flood" provided  
 186 in paragraph (b).

187 b. Include coverage for additional living expenses.

188 c. Require that any loss under personal property or  
 189 contents coverage that is repaired or replaced be adjusted only  
 190 on the basis of replacement costs up to the policy limits.

191 3. Customized flood insurance must include coverage that  
 192 is broader than the coverage provided under standard flood  
 193 insurance.

194 4. Supplemental flood insurance may provide coverage  
 195 designed to supplement a flood policy obtained from the National  
 196 Flood Insurance Program or from an insurer issuing standard or  
 197 preferred flood insurance pursuant to this section. Supplemental  
 198 flood insurance may provide, but need not be limited to,  
 199 coverage for jewelry, art, deductibles, and additional living  
 200 expenses. Supplemental flood insurance does not include coverage  
 201 for the peril of flood that is excess coverage over any other  
 202 insurance covering the peril of flood.

203 (b) "Flood" means a general and temporary condition of  
 204 partial or complete inundation of two or more acres of normally  
 205 dry land area or of two or more properties, at least one of  
 206 which is the policyholder's property, from:

207 1. Overflow of inland or tidal waters;

208 2. Unusual and rapid accumulation or runoff of surface



209 waters from any source;

210 3. Mudflow; or

211 4. Collapse or subsidence of land along the shore of a  
 212 lake or similar body of water as a result of erosion or  
 213 undermining caused by waves or currents of water exceeding  
 214 anticipated cyclical levels that result in a flood as defined in  
 215 this paragraph.

216 (2) Any limitations on flood coverage or policy limits  
 217 pursuant to this section, including, but not limited to,  
 218 deductibles, must be prominently noted on the policy  
 219 declarations page or face page.

220 (3) (a) An insurer may establish and use flood coverage  
 221 rates in accordance with the rate standards provided in s.  
 222 627.062.

223 (b) For flood coverage rates filed with the office before  
 224 October 1, 2019, the insurer may also establish and use such  
 225 rates in accordance with the rates, rating schedules, or rating  
 226 manuals filed by the insurer with the office which allow the  
 227 insurer a reasonable rate of return on flood coverage written in  
 228 this state. Flood coverage rates established pursuant to this  
 229 paragraph are not subject to s. 627.062(2) (a) and (f). An  
 230 insurer shall notify the office of any change to such rates  
 231 within 30 days after the effective date of the change. The  
 232 notice must include the name of the insurer and the average  
 233 statewide percentage change in rates. Actuarial data with regard  
 234 to such rates for flood coverage must be maintained by the

235 insurer for 2 years after the effective date of such rate change  
236 and is subject to examination by the office. The office may  
237 require the insurer to incur the costs associated with an  
238 examination. Upon examination, the office, in accordance with  
239 generally accepted and reasonable actuarial techniques, shall  
240 consider the rate factors in s. 627.062(2) (b), (c), and (d), and  
241 the standards in s. 627.062(2) (e), to determine if the rate is  
242 excessive, inadequate, or unfairly discriminatory.

243 (4) A surplus lines agent may export a contract or  
244 endorsement providing flood coverage to an eligible surplus  
245 lines insurer without making a diligent effort to seek such  
246 coverage from three or more authorized insurers under s.  
247 626.916(1) (a). This subsection expires July 1, 2017.

248 (5) In addition to any other applicable requirements, an  
249 insurer providing flood coverage in this state must:

250 (a) Notify the office at least 30 days before writing  
251 flood insurance in this state; and

252 (b) File a plan of operation and financial projections or  
253 revisions to such plan, as applicable, with the office unless  
254 the insurer maintains at least \$35 million in surplus. For  
255 purposes of this paragraph, an insurer may demonstrate such  
256 surplus if the insurer group surplus is used to support covered  
257 flood insurance risks through a pooling arrangement or  
258 intercompany reinsurance.

259 (6) Citizens Property Insurance Corporation may not  
260 provide insurance for the peril of flood.

261       (7) The Florida Hurricane Catastrophe Fund may not provide  
262 reimbursement for losses proximately caused by the peril of  
263 flood, including losses that occur during a covered event as  
264 defined in s. 215.555(2)(b).

265       (8) An agent obtaining an application for flood coverage  
266 from an authorized or surplus lines insurer for a property  
267 receiving flood insurance under the National Flood Insurance  
268 Program must obtain an acknowledgment signed by the applicant  
269 before placing the coverage with the authorized or surplus lines  
270 insurer. The acknowledgment must notify the applicant that the  
271 full risk rate for flood insurance may apply to the property if  
272 such insurance is later obtained under the National Flood  
273 Insurance Program.

274       (9) With respect to the regulation of flood coverage  
275 written in this state by authorized insurers, this section  
276 supersedes any other provision in the Florida Insurance Code in  
277 the event of a conflict.

278       Section 4. This act shall take effect upon becoming a law.